

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5192 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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KANTILAL BALUBHAI KATARIA

Versus

STATE OF GUJARAT

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Appearance:

MR RJ OZA for Petitioner

MR VB GHARANIA for Respondents

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 10/08/1999

ORAL JUDGEMENT

1. Rule. Shri V.B. Gharania waives service of rule  
on behalf of the respondents. The matter is taken up for  
final hearing today.

Heard the learned counsel for the parties.

2. Substantial grievance which has been made in this  
special civil application by the petitioner does not

survive in view of the fact that both the counsel for the parties are in agreement that the services of the petitioner have not been terminated.

3. However, the learned counsel for the petitioner submits that from 1st July, 1999 till 21st July, 1999 the petitioner could not attend the duties for the reason beyond his control but the respondents are not allowing him to join the duties. He submitted that the petitioner is discharging his duties for 12 hours but for the period aforesaid he remained on leave due to conditions beyond his control.

4. It is not controverted by the learned counsel for the respondents that the respondents are not allowing the petitioner to work from 22nd July, 1999. This approach of the respondents is wholly arbitrary and perverse. If for some good and sufficient cause the petitioner remained absent then on his return he should have been called upon to furnish the cause for his absence and if it is really good and sufficient cause, it is not justified for the respondents to proceed in the manner and fashion in which they have proceeded in this case. It amounts to termination of the services of the petitioner, which cannot be permitted in the manner and fashion in which it is done.

5. Only other grievance remains of the representation of the petitioner for his absorption/regularisation on the post of peon/watchman.

6. In the result, this special civil application succeeds and the same is allowed. The respondents are directed to allow the petitioner to resume his duties and the petitioner is directed to furnish his explanation for his absence from 1st July, 1999 till 21st July, 1999 and the respondents shall consider the same sympathetically and in the light of the facts as brought by the petitioner in his application for regularisation of his absence. So far as the representation filed by the petitioner for his absorption/regularisation is concerned, it may be considered in accordance with law. Rule is made absolute accordingly with no order as to costs.

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